

From: Ian Francis | MaxAccountability
Sent: Monday, 28 July 2025 9:55 AM
To: 'misconduct.reporting@asic.gov.au'
Cc: 'tracey.haywood5@gmail.com'; 'rebekah.haywood97@gmail.com';
'Jim.Chalmers.MP@aph.gov.au'; 'Andrew.Leigh.MP@aph.gov.au';
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'senator.pocock@aph.gov.au'; 'senator.lambie@aph.gov.au';
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'balmain@parliament.nsw.gov.au'; 'Secretary@transport.nsw.gov.au';
'contact@safework.nsw.gov.au'
Subject: Request for Director Disqualification – Mr Paul Whitmarsh | Ref: MA-ASIC-DISQ-WHITMARSH-2025-01
Attachments: 20250728 - MaxAccountability_Letter to ASIC_Ref-MA-ASIC-DISQ-WHITMARSH-2025-01.pdf; NSW Parliament - AQON and Attachment A - (includes AWB Contractors).pdf; SafeWork NSW v AWB Contractors Pty Ltd (In Liquidation) - NSW Caselaw.pdf; SafeWork NSW v Paul Whitmarsh (No. 4) - NSW Caselaw.pdf
Importance: High

Dear Mr Savundra,

Please find attached formal correspondence dated 28 July 2025, submitted for ASIC's attention, regarding a request for the disqualification of Mr Paul Whitmarsh from managing corporations under section 206C of the *Corporations Act 2001 (Cth)*.

We respectfully request an acknowledgement of receipt and, where possible, an indication of the anticipated timeline for ASIC's preliminary review by **September 11, 2025**.

Note: All official responses, submissions, and correspondence are to be sent to team@MaxAccountability.org for prompt and proper handling.

Kind Regards,
MaxAccountability.org

Ian Francis
Founder

✉ ian.francis@MaxAccountability.org

🌐 www.MaxAccountability.org

Advocating for transparency, accountability, and justice in workplace safety and industrial fatalities.

MaxAccountability.org

Our Mission

We exist to honour Max Haywood by demanding justice, exposing unsafe work practices, and driving real accountability.

Our Vision

Companies and Directors are held accountable for their decisions and the lives they impact. Justice is not delayed, denied, or dodged.

Our Action

We expose unsafe practices, pursue justice through legal and regulatory channels, and give voice to those silenced by fear or loss.

28 July 2025

Mr. Chris Savundra
Executive Director, Enforcement and Compliance
Directorate of Enforcement and Compliance
Australian Securities & Investments Commission (ASIC)
GPO Box 9827
Melbourne VIC 3001

By Email: misconduct.reporting@asic.gov.au
Our Reference: MA-ASIC-DISQ-WHITMARSH-2025-01

Subject: Request for Director Disqualification – Mr Paul Whitmarsh (s 206C Corporations Act 2001 (Cth))

Dear Mr. Savundra,

I write to formally request that ASIC disqualify Mr Paul Whitmarsh from managing corporations pursuant to section 206C of the Corporations Act 2001 (Cth).

This request is submitted in the public interest and is supported by extensive evidence of Mr Whitmarsh's serious and repeated failures in his duties as a company director, including a criminal conviction, insolvent trading, and phoenix-like behaviour. The facts are supported by court judgments and parliamentary records, all of which are submitted with this letter.

Grounds for Disqualification

1. Criminal Conviction under the WHS Act

On 2 May 2025, Mr Whitmarsh was found guilty of a Category 2 offence under s 27 and s 32 of the Work Health and Safety Act 2011 (NSW) and was convicted and fined \$300,000 on 3 July 2025 by the NSW District Court in *SafeWork NSW v Paul Whitmarsh (No. 4)*.

The offence arose from a workplace fatality at AWB Contractors Pty Ltd on 27 January 2021, when a yacht mast fell and killed a worker, Max Haywood.

Please note: A copy of this letter will be made publicly available on MaxAccountability.org, along with any official response(s) received from the primary addressee or a copied party. In the interest of transparency, if no response, preliminary or otherwise, is received within fourteen (14) days from the date of this correspondence, that fact will also be noted and published on the same platform.

The court found Mr Whitmarsh failed to:

- Ensure basic safe systems of work were in place;
- Implement or verify compliance with risk controls;
- Provide appropriate resources or training;
- Ensure personal protective equipment was used.

The court determined that none of the appropriate safety measures were in place at the time of the fatal incident, despite being mandated in updated policies developed only after the fatality.

2. Director of an Insolvent Company – s 588G Breach

Mr Whitmarsh was the sole director of AWB Contractors Pty Ltd (now ACN 102 299 409 Pty Ltd) from 2002 until it entered liquidation in November 2024.

The court noted that the company had likely been trading while insolvent since at least 30 June 2020, as reported by the appointed liquidator. The company's collapse left debts to government and private creditors and followed serious governance and safety failings under his management.

3. Phoenix Activity – Continuation of Business through a New Entity

Following the liquidation of AWB Contractors, Mr Whitmarsh established a new company: AWB Waterfront Constructions Pty Ltd.

This new entity:

1. Is directed solely by Mr Whitmarsh;
2. Operates from the same Rozelle site;
3. Performs materially the same functions (marine salvage, barge operations);
4. Utilises materially the same physical assets (vessels, cranes, barge);
5. Contracts with the same types of clients;
6. Contracts for the same types of work.

The continuity of name, personnel, assets, and operations raises serious concerns of phoenix activity, designed to shed liabilities and continue the same business under a different entity. This conduct undermines the integrity of Australia's corporate and insolvency regime.

4. Regulatory Failures Ignored – Pattern of Neglect

Parliamentary records show that SafeWork NSW received four formal complaints about AWB Contractors' safety practices before the fatality:

- Three complaints in 2017 (closed without enforcement),
- One complaint about the Rozelle site on 6 December 2020, which was not followed up before the fatality.

Despite this regulatory history and repeated warnings, Mr Whitmarsh took no adequate steps to overhaul AWB's safety systems, a failure which ultimately contributed to the death of a worker.

Conclusion

Mr Whitmarsh's conduct as a company director is marked by:

- Criminal breach of WHS laws resulting in death;
- Trading while insolvent for an extended period;
- Deliberate or reckless continuity of operations under a near-identical entity after liquidation;
- Regulatory non-compliance and neglect, despite prior warnings.

Under section 206C, ASIC has discretion to apply to the court for a disqualification order where the person has been involved in multiple contraventions or where it is otherwise in the public interest.

In light of the severity and breadth of misconduct, I respectfully submit that this case warrants urgent intervention under section 206C to disqualify Mr Whitmarsh from managing corporations.

A copy of this correspondence is provided to the family of Mr. Max Haywood as it outlined in the relevant section.

I and the MaxAccountability.org team are available to assist further should ASIC require any additional documentation, evidence, or clarification.

Please note our disclosure policy on the first page regarding transparency and public reporting of correspondence with government agencies. This letter falls within that scope. Fourteen (14) days from the date of this letter is **11 September 2025**. We trust your department can provide at minimum an initial acknowledgement of receipt and an indicative timeline for review or update within this period.

Kindly direct replies to team@MaxAccountability.org.

Yours sincerely,

Mr. Ian Francis
Founder, MaxAccountability.org

MaxAccountability.org

Attachments:

The following documents are attached and submitted in support of this request:

1. *SafeWork NSW v AWB Contractors Pty Ltd (In Liquidation) – NSW District Court Judgment outlining systemic WHS breaches and corporate conviction;*
2. *SafeWork NSW v Paul Whitmarsh (No. 4) – NSW District Court Judgment of conviction and sentencing;*
3. *NSW Parliament – AQON and Attachment A – Record of prior WHS complaints and enforcement inaction relating to AWB Contractors.*

Copy to:

Mrs. Tracey Haywood, Wife of Max Haywood, tracey.haywood5@gmail.com
Ms. Rebekah Haywood, Daughter of Max Haywood, rebekah.haywood97@gmail.com
The Hon Dr Jim Chalmers MP – Treasurer (*ASIC ministerial responsibility*), Jim.Chalmers.MP@aph.gov.au
The Hon Dr Andrew Leigh MP – Assistant Minister for Treasury (*corporate accountability*), Andrew.Leigh.MP@aph.gov.au
Senator Deborah O'Neill – Chair, Parliamentary Joint Committee on Corporations and Financial Services, senator.o'neill@aph.gov.au
The Hon Tony Burke MP – Minister for Employment and Workplace Relations (*workplace deaths*), Tony.Burke.MP@aph.gov.au
Senator David Pocock, senator.pocock@aph.gov.au
Senator Jacqui Lambie, senator.lambie@aph.gov.au
The Hon Tanya Plibersek MP – Federal Member for Sydney (Rozelle), Tanya.Plibersek.MP@aph.gov.au
The Hon John Graham MLC – NSW Minister for Transport, john.graham@parliament.nsw.gov.au
The Hon Sophie Cotsis MP – NSW Minister for Industrial Relations, office@cotsis.minister.nsw.gov.au
The Hon Anoulack Chanthivong MP – NSW Minister for Better Regulation and Fair Trading, office@chanthivong.minister.nsw.gov.au
Kobi Shetty MP – NSW Member for Balmain (Rozelle), balmain@parliament.nsw.gov.au
John Murray – Secretary, Transport for NSW (TfNSW), Secretary@transport.nsw.gov.au
SafeWork NSW – Workplace Health and Safety Regulator, contact@safework.nsw.gov.au